

Soviet Attitudes Toward International Law

The initial attitudes of the Soviet regime toward international law derived from Marxist theory and the events of the period of revolution and civil war, 1917-1921. By Marxist theory, international law was only a codification of the way bourgeois states transacted business between each other and a series of rules that imperialists used to enforce the subjugation of colonies and semi-colonies.

In this period, the principal international obligation of the Bolsheviks was to encourage world revolution. International law had little to offer then in pursuit of that task. As the initial hopes for mass uprisings faded, the Soviet leaders were forced to deal with bourgeois states and consequently with the problems of international law, but their contempt for it as a body of doctrine regulating the relations among states endured. They justified the abrogation of the foreign debts of the Czarist government by claiming that the Soviet Union was not a successor state. They demanded the retrocession from Rumania of Bessarabia, where the Red Army had never invaded and where there had been virtually no pro-Communist movement, by saying that as a successor regime, the Soviet Union was entitled to all the Czar's former provinces. In the war with Poland in 1920, the

-2-

Bolsheviks not only claimed their invasion of Poland was aimed at helping the Polish workers and peasants overthrow the Pilsudski government, they hoped to use the Red Army in a drive across Poland to assist the pro-communist forces in Germany.

With the collapse of these ambitions and the necessity of establishing peaceful relations with its neighbors, the Soviet Union began to look more seriously at the nature and the utility of international law. But for many years the doctrine that international law is, at the most, a convenience in dealing with bourgeois states persisted. The right of communists to use any available means to spread the revolution was made clear. P. I. Stuchka, the Commissioner of Justice for the Russian Socialist Republic during the revolutionary period and later a leading legal theoretician and professor, wrote in 1921, ". . . we assign a relatively unimportant sphere to international law . . . plans [that have] emerged concerning leagues of nations with special coercive authority, and fantasies of that order [possess] absolutely no real significance . . . The Soviet form of state is per se an international unification of mankind (or of a portion of mankind). It is no less true that Soviet law has a direct

-3-

tendency towards internationalism. And the authority organized therefor upon an international scale is being generated in the Communist International." (P. I. Stuchka, A General Doctrine of Law, Moscow, 1921.)

This doctrine was most fully developed by Evgeny Pashukanis, Director of the Institute of Soviet Construction and Law, and in 1936 Vice Commissioner of Justice. (In 1936 Pashukanis drafted the new, more liberal law codes to conform with the 1936 Constitution. On January 10, 1937 he was arrested and shot without trial.) ". . . economic and political relationships between the state of the proletarian dictatorship and a bourgeois state. . . are combined into a form of international law. . . /because/ the struggle of the proletarian revolution . . . inevitably includes temporary compromises." Pashukanis spelled out what he meant by "temporary compromises" by quoting Lenin: "The policies of the revolutionary class which do not know how to carry through 'an adroit maneuver, a tolerationist policy, and compromises' so as to evade a battle known to be disadvantageous are good for naught." (E. B. Pashukanis, Soviet State and Revolution in Law, Moscow, 1930.) In 1935 Pashukanis published his Essays on International Law, his last major statement on the subject. Fundamentally, he maintained that international

-4-

law was not, as some Soviet writers had alleged, "the expression of a common ideology, but on the contrary, an instrument in the struggle between rival states, including those of differing economic and social systems" (Soviet Legal Theory, by Rudolf Schlesinger, New York, 1945, p. 279). Implicit in all of Pashukanis' writings and those of his followers was the doctrine that international law was binding on the Soviet Union only so long as it served Soviet purposes. The only moral authority in international affairs was dedication to the communist revolution. Along with most of these communists who genuinely believed in the revolution as the liberation of mankind, Pashukanis was killed during the purges. All his doctrines on law were denounced, including that touching on international law. In its place a doctrine on the dual nature of international law arose in Soviet theory. Its purpose was to reconcile the need of the Soviet State to reassure other nations with which it was becoming involved in trying to create a bloc to resist Germany with the theoretical demands of Marxism-Leninism and its desire to appear as the champion of the oppressed to communists in other countries.

The new doctrine accepted the full obligations of treaty signatories as binding in the USSR (in 1934 the USSR

-5-

signed a treaty of alliance with France and entered the League of Nations), while at the same time proclaiming that the Soviet Union would never enter agreements compromising the rights of nations or reinforcing the rights of colonial powers over their colonies. This, in essence, was the difference the Soviets proclaimed between their view of international law and that of bourgeois states. Maxim Litvinov, then Soviet Foreign Commissar, stated that the USSR would join agreements with other states provided: "Firstly, the extension to every state belonging to such an association of the liberty to preserve. . . its state personality and the economic and social system chosen by it--in other words, reciprocal non-interference in the domestic affairs of the states therein associated--and, secondly, the existence of common aims." (Litvinov's grandson, Pavel, has just been sentenced to exile in Siberia for defending Czechoslovakia's right to "the economic and social system chosen by it.")

After the Second World War, the Soviet Union entered into numerous international agreements that bound it to observe the commonly accepted customs and obligations of international law. The doctrine of the dual aspects of international law became more and more muted in practice,

-6-

although in theory it acquired a new extention, socialist international law, which applies in the relations among the countries of "The Socialist Commonwealth." These relations differ from those among nations with different social systems because of the "various forms of cooperation on the basis of equal rights and in the absence of mutual conflict. International cooperation of the USSR and the countries of peoples' democracy follows the generous aims of guaranteeing general peace, real freedom and independence of peoples and states." (Big Soviet Encyclopedia, vol. 27, p. 23.)

SSSO This line has been expounded in detail in a recent work by A. P. Butenko, a doctor of philosophy of the Soviet Academy of Sciences, the most prestigious scholarly organization in the Soviet Union. Dr. Butenko's The World Socialist System and Anti-Communism is dedicated to the refutation of the thesis that the Soviet Union has imposed an imperial system in Eastern Europe. It was published on April 30, 1968. Since Czechoslovakia and the Kovalev article, Dr. Butenko may have suffered the same fate that Pashukanis met in 1937. If he has not, he and the Academy of Sciences should explain how the thesis of his book can be reconciled with recent events. Among significant passages from his book are the following:

-7-

"Bourgeois ideologues deliberately distort the objective basis of the tendency toward independent development of the socialist states, utilizing the myth of the threat of imperialist domination, citing the fear of a number of countries that they will be devoured by the Soviet Union." (p. 34)

"Under socialism the social structure created within the national borders of one or another state conditions the objective possibility of the amicable solution of non-antagonistic collisions

between the socialist countries, the possibility of the deepening and expanding of collaboration.

In the countries of socialism national liberation has been achieved (the national state, the economy, and the culture are being developed)." (p. 36)

"But from the international character of socialism does not at all follow the necessity of the political leadership by one state of the others, and a fortiori the dominating authoritarian position of one or another state in the world system, as the ideologues of anti-communism attempt to assert." (p. 46)

-8-

"Within the world socialist system the principle of respect for state sovereignty presupposes the supreme rights of the socialist nations to dispose of all of the natural, economic, and human resources within the limits of the state borders; the indisputable right of each people independently to decide the fate of their country. . ." (p. 89)

"Anti-communists are not capable of understanding that the sovereignty of the socialist nations consists not in the right to make war upon one another, but in the right independently to create a new social structure. . ." (p. 100)

"And this means that sovereignty of the socialist states is now linked not to the right of destruction, war, but to the right of each people to make a creative contribution to the common cause of the communist transformation of the world, that the recourse to military force is not characteristic of the mutual relations of the socialist states." (p. 100)

"And this in its turn presupposes the conclusion that within the framework of the world socialist system in its contemporary state of equalization of



-9-

the levels of the individual countries such a center cannot exist (a center of domination of the world communist movement in any one country). If any socialist country would attempt to claim such a role at present, such an aspiration would inevitably have a hegemonical, great-power, nationalistic, and subjective character alien to socialism." (p. 117)

"Socialist states are advocates of non-intervention in the internal affairs of one another, they respect the laws and traditions of the fraternal countries, and consider impermissible the utilization of any means of economic, political, and military pressure in their mutual relations, they fight against permitting any acts in inter-state relations designed to discredit or replace the composition of the party and state organs which the people have entrusted with the administration of the country." (p. 148)